

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE ENROLLED ACT No. 2130

AN ACT to amend the Indiana Code concerning economic development.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-4-6.1-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2001]: **Sec. 1.3. (a) As used in this chapter, "high technology business operations" means the operations in Indiana of a business engaged in the following:**

- (1) Advanced computing.**
- (2) Creation of advanced materials.**
- (3) Biotechnology.**
- (4) Electronic device technology.**
- (5) Environmental technology.**
- (6) Medical device technology.**

(b) For purposes of this section, "advanced computing" means technology used in the designing and developing of computing hardware and software, including innovations in designing the full range of hardware from hand held calculators to supercomputers and peripheral equipment.

(c) For purposes of this section, "advanced materials" means materials with engineered properties created through the development of specialized processing and synthesis technology, including ceramics, high value added metals, electronic materials, composites, polymers, and biomaterials.

(d) For purposes of this section, "biotechnology" means the



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continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and subatomic levels, as well as novel products, services, technologies, and subtechnologies developed as a result of insights gained from research advances that add to that body of fundamental knowledge.

(e) For purposes of this section, "electronic device technology" means technology involving any of the following:

- (1) Microelectronics.
- (2) Semiconductors.
- (3) Electronic equipment.
- (4) Instrumentation.
- (5) Radio frequency waves.
- (6) Microwaves.
- (7) Millimeter electronics.
- (8) Optical and optic electrical devices.
- (9) Data and digital communications.
- (10) Imaging devices.

(f) For purposes of this section, "environmental technology" means any of the following:

- (1) The assessment and prevention of threats or damage to human health or the environment.
- (2) Environmental cleanup.
- (3) The development of alternative energy sources.

(g) For purposes of this section, "medical device technology" means technology involving any medical equipment or product (other than a pharmaceutical product) that has therapeutic value or diagnostic value and is regulated by the federal Food and Drug Administration.

SECTION 2. IC 4-4-6.1-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2.5. (a) Subject to ~~subsection~~ **subsections (c) and (d)**, a zone business that claims any of the incentives available to zone businesses shall, by letter postmarked before June 1 of each year:

- (1) submit to the board and to the zone urban enterprise association created under section 4 of this chapter, on a form prescribed by the board, a verified summary concerning the amount of tax credits and exemptions claimed by the business in the preceding year; and
 - (2) pay the amount specified in section 2(4) of this chapter to the board.
- (b) In order to determine the accuracy of the summary submitted

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under subsection (a), the board is entitled to obtain copies of a zone business' tax records directly from the department of state revenue, the state board of tax commissioners, or a county official, notwithstanding the provisions of any other law. A summary submitted to a board or zone urban enterprise association, or a record obtained by the board, under this section is confidential. A board member, an urban enterprise association member, or an agent of a board member or an urban enterprise association member, who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor.

(c) The board may grant one (1) extension of the time allowed to comply with subsection (a) under the provisions of this subsection. To qualify for an extension, a zone business must apply to the board by letter postmarked before June 1. The application must be in the form specified by the board. The extension may not be for a period that is longer than forty-five (45) days under rules adopted by the board under IC 4-22-2.

(d) If a zone business **that did not comply with subsection (a) before June 1 and did not file for an extension under subsection (c) before June 1** complies with subsection (a) **after before July 15, 16,** the amount of the tax credit and exemption incentives for the preceding year that were otherwise available to the zone business because the business was a zone business are waived, **unless the zone business pays to the board a penalty equal to fifteen percent (15%) of the amount of the tax credit and exemption incentives for the preceding year that were otherwise available to the zone business because the business was a zone business. A zone business that pays a penalty under this subsection for a year must pay the penalty to the board before July 16 of that year. The board shall deposit any penalty payments received under this subsection in the enterprise zone fund.**

(e) This subsection is in addition to any other sanction imposed by subsection (d) or any other law. If a zone business fails to comply with subsection (a) **before June 1 without filing for and being granted an extension by the board as provided under subsection (c) or if a zone business fails to comply with subsection (a) before July 16 if an extension of time has been granted by the board under subsection (c), and does not pay any penalty required under subsection (d) by letter postmarked before July 16 of that year,** the zone business:

- (1) is denied all of the tax credit and exemption incentives available to a zone business because the business was a zone business for that year; and



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(2) is disqualified from further participation in the enterprise zone program under this chapter until the zone business:

(A) petitions the board for readmission to the enterprise zone program under this chapter; and

(B) pays a civil penalty of one hundred dollars (\$100).

SECTION 3. IC 4-4-6.1-3, AS AMENDED BY P.L.204-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) The board may designate up to ten (10) enterprise zones, in addition to any enterprise zones which the federal government may designate in the state. After January 1, 1988, the board may by seven (7) affirmative votes increase the number of enterprise zones above ten (10), but it may add no more than two (2) new zones each year **(excluding any zone that may be added by the board in a municipality in which a previously designated zone has expired)** and may not add any new zones after December 31, ~~2003~~ **2015**. There may be no more than one (1) enterprise zone in any municipality.

(b) After approval by resolution of the legislative body, the executive of any municipality that is not an included town under IC 36-3-1-7 may submit one (1) application to the enterprise zone board to have one (1) portion of the municipality designated as an enterprise zone. If an application is denied, the executive may submit a new application. The board by rule shall provide application procedures.

(c) The board shall evaluate an enterprise zone application, if it finds that the following threshold criteria exist in a proposed zone:

(1) A poverty level in which twenty-five percent (25%) of the households in the zone are below the poverty level as established by the most recent United States census or an average rate of unemployment for the most recent eighteen (18) month period for which data is available that is at least one and one-half (1 1/2) times the average statewide rate of unemployment for the same eighteen (18) month period.

(2) A population of more than two thousand (2,000) but less than ten thousand five hundred (10,500).

(3) An area of more than three-fourths (3/4) square mile but less than four (4) square miles, with a continuous boundary (using natural, street, or highway barriers when possible) entirely within the applicant municipality. However, if the zone includes a parcel of property that:

(A) is owned by the municipality; and

(B) has an area of twenty-five (25) acres or more;



the area of the zone may be increased above the four (4) square mile limitation by an amount not to exceed the area of the municipally owned parcel.

(4) Property suitable for the development of a mix of commercial, industrial, and residential activities.

(5) The appointment of an urban enterprise association that meets the requirements of section 4 of this chapter.

(6) A statement by the applicant indicating its willingness to provide certain specified economic development incentives.

(d) If an applicant has met the threshold criteria of subsection (c), the board shall evaluate the application, arrive at a decision based on the following factors, and either designate a zone or reject the application:

(1) Level of poverty, unemployment, and general distress of the area in comparison to other applicant and nonapplicant municipalities and the expression of need for an enterprise zone over and above the threshold criteria contained in subsection (c).

(2) Evidence of support for designation by residents, businesses, and private organizations in the proposed zone, and the demonstration of a willingness among those zone constituents to participate in zone area revitalization.

(3) Efforts by the applicant municipality to reduce the impediments to development in the zone area where necessary, including but not limited to the following:

(A) A procedure for streamlining local government regulations and permit procedures.

(B) Crime prevention activities involving zone residents.

(C) A plan for infrastructure improvements capable of supporting increased development activity.

(4) Significant efforts to encourage the reuse of existing zone structures in new development activities to preserve the existing character of the neighborhood, where appropriate.

(5) The proposed managerial structure of the zone and the capacity of the urban enterprise association to carry out the goals and purposes of this chapter.

(e) An enterprise zone expires ten (10) years from the day on which it is designated by the board. The two (2) year period immediately before the day on which it expires is the phase-out period. During the phase-out period, the board may review the success of the enterprise zone based upon the following criteria and may, with the consent of the budget committee, renew the zone, including all provisions of this chapter, for a period of five (5) years:

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- (1) Increases in capital investment in the zone.
- (2) Retention of jobs and creation of jobs in the zone.
- (3) Increases in employment opportunities for residents of the zone.

(f) If an enterprise zone is renewed under subsection (e), the two (2) year period immediately before the date on which the zone expires is another phase-out period. During the phase-out period, the board may review the success of the enterprise zone based upon the criteria set forth in subsection (e) and, with the consent of the budget committee, may again renew the zone, including all provisions of this chapter, for a final period of five (5) years. The zone may not be renewed after the expiration of this final five (5) year period.

(g) Notwithstanding any other provision of this chapter, one (1) or more units (as defined in IC 36-1-2-23) may declare all or any part of a military base or other military installation that is inactive, closed, or scheduled for closure as an enterprise zone. Such a declaration shall be made by a resolution of the legislative body of the unit that contains the geographic area being declared an enterprise zone. The legislative body must include in the resolution that an urban enterprise association is created or designate another entity to function as the urban enterprise association under this chapter. The resolution must also be approved by the executive of the unit. If the resolution is approved, the executive shall file the resolution and the executive's approval with the board. If an entity other than an urban enterprise association is designated to function as an urban enterprise association, the entity's acceptance must be filed with the board along with the resolution. The enterprise zone designation is effective on the first day of the month following the date the resolution is filed with the board. Establishment of an enterprise zone under this subsection is not subject to the limit of two (2) new enterprise zones each year under subsection (a).

(h) The enterprise zone board may not approve the enlargement of an enterprise zone's geographic boundaries unless the area to be enlarged meets the criteria of economic distress set forth in subsection (c)(1).

SECTION 4. IC 4-4-28-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. As used in this chapter, "individual development account" means an account in a financial institution administered by a community development corporation that allows a qualifying individual to deposit money:

- (1) to be matched by the state, financial institutions, corporations, and other entities; and
- (2) that will be used by the qualifying individual for one (1) or

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more of the following:

(A) To pay for costs **(including tuition, laboratory costs, books, computer costs, and other costs associated with attendance)** at an accredited institution of higher education or a vocational school for the individual or for a dependent of the individual.

(B) To pay for the costs **(including tuition, laboratory costs, books, computer costs, and other costs)** associated with an accredited or a licensed training program that may lead to employment for the individual or for a dependent of the individual.

(C) To purchase a primary residence for the individual or for a dependent of the individual **or to reduce the principal amount owed on a primary residence that was purchased by the individual or a dependent of the individual with money from an individual development account.**

(D) To begin or to purchase part or all of a business **or to expand an existing small business.**

SECTION 5. IC 4-4-28-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. As used in this chapter, "qualifying individual" means an individual or a member of an individual's household who may establish an individual development account because the individual:

- (1) receives or is a member of a household that receives assistance under IC 12-14-2; or
- (2) is a member of a household with an annual household income that is less than ~~one hundred fifty percent (150%)~~ **one hundred seventy-five percent (175%)** of the federal income poverty level.

SECTION 6. IC 4-4-28-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) A qualifying individual, **including an individual who:**

- (1) established an individual development account under this chapter before July 1, 2001; and**
- (2) held the account described in subdivision (1) for less than four (4) years;**

may establish an account by applying at a community development corporation **after June 30, 2001.**

(b) At the time of establishing an account under this section, the qualifying individual must name a beneficiary to replace the qualifying individual as the holder of the account if the qualifying individual dies. If the beneficiary:

- (1) is a member of the qualifying individual's family, all funds in

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the account remain in the account; and

(2) is not a member of the qualifying individual's family, all funds in the account provided by the state revert to the state.

The qualifying individual may change the name of the beneficiary at the qualifying individual's discretion. A beneficiary who becomes the holder of an account under this subsection is subject to this chapter and rules adopted under this chapter regarding withdrawals from the account.

(c) Only one (1) member of a qualifying individual's household may establish an account.

SECTION 7. IC 4-4-28-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2001]: Sec. 10. (a) Not more than eight hundred (800) accounts may be established in the state each year.

(b) A community development corporation shall use money that is in an individual development account fund established under section 13 of this chapter to allow a qualified individual on a waiting list maintained by the community development corporation to establish an account.

~~(c) This section expires July 1, 2001.~~

SECTION 8. IC 4-4-28-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2001]: Sec. 12. (a) The department of commerce shall allocate, for each account that has been established **after June 30, 2001**, for not more than four (4) years, **including any time in which an individual held an individual development account under this chapter before July 1, 2001**, three dollars (\$3) for each one dollar (\$1) an individual deposited into the individual's account during the preceding twelve (12) months. However, the department's allocation under this subsection may not exceed nine hundred dollars (\$900) for each account described in this subsection.

(b) Not later than June 30 of each year, the department of commerce shall deposit into each account established under this chapter the appropriate amount of money determined under this section. **However, if the individual deposits the maximum amount allowed under this chapter on or before December 31 of each year, the individual may request in writing that the department of commerce allocate and deposit the matched funds under subsection (a) into the individual's account not later than forty-five (45) days after the department of commerce receives the written request.**

(c) Money from a federal block grant program under Title IV-A of the federal Social Security Act may be used by the state to provide money under this section for deposit into an account held by an

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individual who receives assistance under IC 12-14-2.

~~(d) This section expires July 1, 2001.~~

SECTION 9. IC 4-4-28-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. (a) Money withdrawn from an individual's account is not subject to taxation under IC 6-3-1 through IC 6-3-7 if the money is used for at least one (1) of the following:

- (1) To pay for costs **(including tuition, laboratory costs, books, computer costs, and other costs)** at an accredited institution of higher education or a vocational school for the individual or for a dependent of the individual.
- (2) To pay for the costs **(including tuition, laboratory costs, books, computer costs, and other costs)** associated with an accredited or a licensed training program that may lead to employment for the individual or for a dependent of the individual.
- (3) To purchase a primary residence for the individual or for a dependent of the individual **or to reduce the principal amount owed on a primary residence that was purchased by the individual or a dependent of the individual with money from an individual development account.**
- (4) To begin or to purchase part or all of a business **or to expand an existing small business.**
- (5) To roll over the account under subsection (c) into a family college savings account program established under IC 21-9-3.**

(b) At the time of requesting authorization under section 15 of this chapter to withdraw money from an individual's account under subsection (a)(4), the individual must provide the community development corporation with a business plan that:

- (1) is approved by:
 - (A) a financial institution; or
 - (B) a nonprofit loan fund that has demonstrated fiduciary stability;
- (2) includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and
- (3) may require the individual to obtain the assistance of an experienced business advisor.

(c) Upon the expiration of the term of the individual's account under this chapter, an individual may elect to roll over the money from the individual's account directly into a family college savings account program established under IC 21-9-3.

SECTION 10. IC 4-4-28-18 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JUNE 30, 2001]: Sec. 18. (a) Each community development corporation shall annually:

- (1) evaluate the individual development accounts administered by the community development corporation; and
- (2) submit a report containing the evaluation information to the department of commerce.

(b) ~~This section expires July 1, 2001.~~ **Two (2) or more community development corporations may work together in carrying out the purposes of this chapter.**

SECTION 11. IC 4-4-28-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2001]: Sec. 21. ~~(a)~~ The department of commerce may adopt rules under IC 4-22-2 to implement this chapter.

~~(b) This section expires July 1, 2001.~~

SECTION 12. IC 6-3-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 8. (a) For purposes of this section, "qualified employee" means an individual who is employed by a taxpayer, ~~or by an employer exempt from adjusted gross income tax (IC 6-3-1 through IC 6-3-7) under IC 6-3-2-2.8(3), ~~(4)~~, IC 6-3-2-2.8(4), or ~~(5)~~ IC 6-3-2-2.8(5), a nonprofit entity, the state, a political subdivision of the state, or the United States government~~ and who:

- (1) has the employee's principal place of residence in the enterprise zone in which the employee is employed;
- (2) performs services for the taxpayer, ~~or the employer, the nonprofit entity, the state, the political subdivision, or the United States government~~, ninety percent (90%) of which are directly related to:

~~(A) the conduct of the taxpayer's or employer's trade or business; or~~

(B) the activities of the nonprofit entity, the state, the political subdivision, or the United States government;

that is located in an enterprise zone; and

- (3) performs at least fifty percent (50%) of the employee's service for the taxpayer or employer during the taxable year in the enterprise zone.

(b) Except as provided in subsection (c), a qualified employee is entitled to a deduction from his adjusted gross income in each taxable year in the amount of the lesser of:

- (1) one-half (1/2) of his adjusted gross income for the taxable year that he earns as a qualified employee; or
- (2) seven thousand five hundred dollars (\$7,500).

(c) No qualified employee is entitled to a deduction under this

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section for a taxable year that begins after the termination of the enterprise zone in which he resides.

SECTION 13. IC 6-3.1-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 8. (a) To be entitled to a credit, a taxpayer must request the department of commerce to determine:

- (1) whether a purchase of an ownership interest in a business located in an enterprise zone is a qualified investment; and
- (2) the percentage credit to be allowed.

The request must be made before a purchase is made.

(b) The department of commerce shall find that a purchase is a qualified investment if:

- (1) the business is viable;
- (2) the business has not been disqualified from enterprise zone incentives or benefits under IC 4-4-6.1;
- (3) the taxpayer has a legitimate purpose for purchase of the ownership interest;
- (4) the purchase would not be made unless a credit is allowed under this chapter; and
- (5) the purchase is critical to the commencement, enhancement, or expansion of business operations in the zone and will not merely transfer ownership, and the purchase proceeds will be used only in business operations in the enterprise zone.

The department may delay making a finding under this subsection if, at the time the request is filed under subsection (a), an urban enterprise zone association has made a recommendation that the business be disqualified from enterprise zone incentives or benefits under IC 4-4-6.1 and the enterprise zone board has not acted on that request. The delay by the department may not last for more than sixty (60) days.

(c) If the department of commerce finds that a purchase is a qualified investment, the department shall certify the percentage credit to be allowed under this chapter based upon the following:

- (1) A percentage credit of ten percent (10%) may be allowed based upon the need of the business for equity financing, as demonstrated by the inability of the business to obtain debt financing.
- (2) A percentage credit of two percent (2%) may be allowed for business operations in the retail, professional, or warehouse/distribution codes of the SIC Manual.
- (3) A percentage credit of five percent (5%) may be allowed for business operations in the manufacturing codes of the SIC Manual.



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(4) **A percentage credit of five percent (5%) may be allowed for high technology business operations (as defined in IC 4-4-6.1-1.3).**

(5) A percentage credit may be allowed for jobs created during the twelve (12) month period following the purchase of an ownership interest in the zone business, as determined under the following table:

| JOBS CREATED | PERCENTAGE |
|-------------------------|------------|
| Less than 11 jobs | 1% |
| 11 to 25 jobs | 2% |
| 26 to 40 jobs | 3% |
| 41 to 75 jobs | 4% |
| More than 75 jobs | 5% |

~~(5)~~ (6) A percentage credit of five percent (5%) may be allowed if fifty percent (50%) or more of the jobs created in the twelve (12) month period following the purchase of an ownership interest in the zone business will be reserved for zone residents.

~~(6)~~ (7) A percentage credit may be allowed for investments made in real or depreciable personal property, as determined under the following table:

| AMOUNT OF INVESTMENT | PERCENTAGE |
|------------------------------|------------|
| Less than \$25,001 | 1% |
| \$25,001 to \$50,000 | 2% |
| \$50,001 to \$100,000 | 3% |
| \$100,001 to \$200,000 | 4% |
| More than \$200,000 | 5% |

The total percentage credit may not exceed thirty percent (30%).

(d) If all or a part of a purchaser's intent is to transfer ownership, the tax credit shall be applied only to that part of the investment that relates directly to the enhancement or expansion of business operations at the zone location.

SECTION 14. IC 6-3.1-18-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) The amount of tax credits allowed under this chapter may not exceed ~~five hundred thousand dollars (\$500,000)~~ **two hundred thousand dollars (\$200,000)** in any state fiscal year.

(b) The department shall:

- (1) record the time of filing of each application for allowance of a credit required under section 9 of this chapter; and
- (2) approve the applications, if they otherwise qualify for a tax credit under this chapter, in the chronological order in which the applications are filed in the state fiscal year.



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(c) When the total credits approved under this section equal the maximum amount allowable in any state fiscal year, an application filed after that time for the same fiscal year may not be approved. However, if an applicant for whom a credit has been approved fails to file the statement of proof of payment required under section 9 of this chapter, an amount equal to the credit previously allowed or set aside for the applicant may be allowed to any subsequent applicant in the year. In addition, the department may, if the applicant so requests, approve a credit application, in whole or in part, with respect to the next succeeding state fiscal year.

SECTION 15. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2001]: IC 4-4-28-19; IC 4-4-28-20.

SECTION 16. [EFFECTIVE JULY 1, 2001] **Any allocation by the department of commerce under IC 4-4-28-12, as amended by this act, on an individual development account established before July 1, 2001, expires June 30, 2001.**

SECTION 17. [EFFECTIVE JANUARY 1, 2002] **IC 6-3-2-8, as amended by this act, applies only to taxable years beginning after December 31, 2001.**

SECTION 18. [EFFECTIVE JANUARY 1, 2002] **IC 6-3.1-10-8, as amended by this act, applies only to taxable years beginning after December 31, 2001.**

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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